UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Halo Innovations, Inc.,	)	
	)	
	)	Civil No. ________________
Plaintiff,	)	
	)	
v.	)	COMPLAINT
	)	(Jury Trial Demanded)
Karen Barski Designs, LLC, d/b/a KB Designs, LLC and Woombie	)	
	)	
Defendant.	)	
___________________________________	)	

Plaintiff alleges the following causes of action against Defendant:

INTRODUCTION

1. Plaintiff Halo Innovations, Inc. ("Halo") brings this action against Defendant Karen Barski Designs, LLC, d/b/a/ KB Designs, LLC and Woombie (collectively KB Designs) seeking relief under federal and state law for damages caused by Defendant's infringement of Halo's federally registered trademark "SLEEPSACK®." Halo alleges seven counts in this complaint including, (1) federal trademark infringement under 15 U.S.C. § 1114; (2) federal unfair competition under 15 U.S.C. § 1125(a); (3) federal trademark dilution under 15 U.S.C. § 1125(c); (4) common law trademark infringement; (5) trademark dilution under Minn. Stat. § 333.285; (6) unlawful trade practices under Minn. Stat. § 325D.13; (7) deceptive trade practices under Minn. Stat. § 325D.44.

2. Plaintiff Halo is the owner of the federally registered trademark "SLEEPSACK®," which it uses to advertise, promote, and sell infant sleepwear including wearable blankets and swaddles. Since 2000, Halo has used the SLEEPSACK® trademark to identify its distinctive line of infant products, which are sold around the world and widely used by parents of newborns and babies. In conjunction with hospitals nationwide, Halo provides new parents with SLEEPSACK® swaddles to promote a safe, blanket-free alternative for parents.

3. The U.S. Patent & Trademark Office (USPTO) registered the trademark SLEEPSACK® on March 30, 2010, for use on infant sleepwear, naming Halo as the owner of the registration. Halo has used the SLEEPSACK® trademark continuously since its registration, and consequently, the mark has now become incontestable under 15 U.S.C. §§ 1065 and 1115. Halo has also acquired common law rights to the trademark SLEEPSACK® through its use of the mark.

4. Defendant KB Designs is using the terms "Sleep Sack" and/or "Sleepsack" in association with the advertising, marketing, distribution and sale of its Woombie line of infant sleepwear, including infant swaddles, that compete directly with Plaintiff Halo's SLEEPSACK® swaddles and wearable blankets.

5. Halo alleges that Defendant's use of the terms "Sleep Sack" and/or "Sleepsack" in association with its infant sleepwear infringes Halo's federally registered trademark under 15 U.S.C. § 1114(a) and is likely to cause confusion because: (a) Defendant uses the terms on products that are nearly identical to Halo's trademarked SLEEPSACK® products; (b) the terms "Sleep Sack" and "Sleepsack" are nearly identical

in sound, sight, and meaning to Halo's registered trademark SLEEPSACK®; and (c) Defendant distributes its products through the same channels of trade as Halo.

6. Halo further alleges that Defendant's use of the terms "Sleep Sack" and/or "Sleepsack" in its advertising, promotion and distribution of its Woombie line of products constitutes unfair competition in violation of 15 U.S.C. § 1125(a) because use of these marks in connections with infant sleepwear, wearable blankets, and swaddles is a false designation of origin, or false or misleading representation of fact, that is likely to cause confusion, mistake, or deception as to a connection or association between Defendant and Plaintiff Halo, the creator of the SLEEPSACK® infant swaddle.

THE PARTIES

7. Plaintiff Halo Innovations, Inc. is a corporation organized and existing under the laws of the State of Minnesota, having a principal place of business at 111 Cheshire Lane, Suite 700, Minnetonka, Minnesota 55305. Halo is engaged in the business of designing and selling safe products for infants, including Halo's SLEEPSACK® wearable blankets and swaddles.

8. Defendant Karen Barski Designs, LLC, d/b/a KB Designs and Woombie (collectively "KB Designs") is a limited liability company organized and existing under the laws of the State of Georgia, having a principal place of business at 15355 Tullgean Drive, Milton, Georgia 30004.

JURISDICTION AND VENUE

9. This Court has original subject matter jurisdiction over the federal law claims of this action under 15 U.S.C. §1121(a) and 28 U.S.C. §§1331 and 1338 (a) and (b), in that these claims arise under the laws of the United States, 15 U.S.C. §§1051 *et seq*. This Court has subject matter jurisdiction over Halo's related state law claims under 28 U.S.C. §§1338 and 1367.

10. This Court has personal jurisdiction over Defendant because Defendant has engaged in substantial activities in the state of Minnesota that have given rise to the allegations in the Complaint, causing damage to Plaintiff Halo in Minnesota. Defendant is distributing the infringing products in Minnesota and has sold the infringing products at retail stores in Minnesota, including at the Buy Buy Baby store at 9160 Hudson Road in Woodbury, Minnesota. By virtue of its advertising, distribution and sales of the infringing products, on the internet and at brick-and-mortar retail stores, Defendant has engaged in acts or omissions within this state causing injury to Plaintiff Halo here, and further, has engaged in acts or omissions outside of this state causing injury within this state. These acts give rise to Plaintiff Halo's federal and state claims for trademark infringement and unfair competition. Personal jurisdiction over KB Designs is therefore proper under Minn. Stat. §543.19 and the *Due Process Clause of the Fourteenth Amendment*.

11. Venue in this District is proper under 28 U.S.C. § 1391(b).

FACTS COMMON TO ALL COUNTS

A. Plaintiff's Trademark and Products

12. Plaintiff Halo is a well-known manufacturer and retailer of infant sleepwear that is designed to promote safer sleep for babies. Halo was founded by Bill Schmid after he and his wife Cathy lost their first born child to Sudden Infant Death Syndrome. For more than twenty years, Halo has been dedicated to developing products that put the health, safety and well-being of babies first.

13. One of Halo's products is the Halo SleepSack® wearable blanket, which is an infant garment that was designed to replace loose blankets in a crib that can cover a baby's face and interfere with breathing. Halo also sells a SleepSack® Swaddle that is used to securely and safely wrap a newborn without requiring a parent to learn the complicated folding techniques that are otherwise required to safely swaddle an infant with a blanket. Halo SleepSack® products are used by over 1,500 hospitals to promote safe sleep, and by millions of parents nationwide to help babies sleep safely.

Halo® SleepSack® Wearable Blanket

Halo® SleepSack® Swaddle

14. Plaintiff Halo adopted the mark SLEEPSACK® and first used the mark in interstate commerce for its infant garments in October 2001. On August 26, 2002, Halo filed an application for registration of the mark SLEEPSACK® in the United States Patent and Trademark Office. On March 30, 2010, the trademark SLEEPSACK®, Reg. No. 3,765,713, was registered in the United States Patent and Trademark Office on the Principal Register, covering the use of the mark for "infant sleepwear." (A copy of the trademark registration is attached hereto and marked as Exhibit A.)

15. On May 8, 2015, Halo filed a Combined Declaration of Use and Incontestability in the United States Patent and Trademark Office stating that the mark SLEEPSACK® had been in continuous use in commerce for five consecutive years after the date of registration and that the mark was still in use in commerce. Since the date of its Declaration of Use and Incontestability, Plaintiff Halo has continuously used the mark SLEEPSACK® in commerce to identify its infant sleepwear products and to distinguish them from products made and sold by others, by, among other things, prominently displaying the trademark SLEEPSACK® on the packaging, labels, and displays associated therewith. In addition, Halo has prominently displayed the trademark SLEEPSACK® on all advertising associated with its product, including internet advertisement on its own website, www.halosleep.com, and elsewhere.

16. Halo's federal registration for the trademark SLEEPSACK® became incontestable under 15 U.S.C. §§ 1065 and 1115(b) when Halo filed its Declaration of Incontestability, referenced above, with the United States Patent and Trademark Office.

As a result of this statutory incontestability, Halo's trademark registration for SLEEPSACK® is conclusive evidence, under 15 U.S.C. § 1115(b), of the validity of the registered mark, of Halo's ownership of the mark, and of Halo's exclusive right to use the registered mark SLEEPSACK® in commerce in connection with infant sleepwear.

17. The SLEEPSACK® trademark for infant sleepwear products has become famous due to the reputation of the products for quality and infant safety. Halo has invested significant time, money, and resources to publicize SLEEPSACK® infant products in an effort further its mission of improving infant crib safety. SLEEPSACK® products have won numerous awards for their innovative approach to improving crib safety for infants.

18. In 2008, the Home Safety Council granted its Commendation Award for Product Innovation for Consumer Safety to Halo's SleepSack® Swaddle. The Home Safety Council serves as a national resource for home safety education and information.

19. The PTPA Media Awards has granted its Parent Tested Parent Approved Award to Halo's SleepSack® Swaddle and SleepSack® Crib Set. The PTPA Media Awards recognize excellence as rated by parents. Awards are based on the evaluations of over 40,000 volunteer parent testers.

20. The National Parenting Publications Awards (NAPPA) has awarded its Honor Product Award to the Halo SleepSack® Crib Set. NAPPA is one of the longest running and most respected awards programs in the country and has been evaluating children's products for over twenty years.

21. The Cribsie Awards recognizes the best brand and products for babies and tots. Halo has been awarded a Cribsie award for its SleepSack® Crib Set.

22. Halo has also been awarded an iParenting Award for its SleepSack® Swaddle and SleepSack® wearable blankets. The iParenting Awards are based on reviews by an extensive panel of experts, childcare facilities and parents on numerous criteria such as quality, durability and play value.

23. In addition to earning recognition through these awards, Halo SleepSack® products have also become widely known through Halo's significant investment in the Halo® Safer Way to Sleep® Initiative, which has been adopted by more than 1,500 hospitals in the United States and Canada. This initiative provides hospital nurseries and NICU's an opportunity to educate parents about safe sleep environments by demonstrating the use of a wearable blanket and providing it as a gift to parents. This program also provides free educational resources and SleepSack® Swaddle samples to Child Birth Educators to promote safe sleep practices in their curriculum.

24. As a result of Halo's extensive promotional activities, the awards its products have received, and Halo's collaboration with hospitals, the SLEEPSACK® trademark has become famous, acquired substantial goodwill, and become an extremely valuable commercial asset. Plaintiff's SLEEPSACK® trademark is highly distinctive, strongly associated with Halo, and recognized by the general public as a famous trademark.

25. Halo has exclusively used the SLEEPSACK® trademark on its infant sleepwear products for over sixteen years, and sells its products in retail stores and on the internet.

26. Halo has given notice of its rights in the SLEEPSACK® Trademark by using the ® symbol in connection with its registered SLEEPSACK trademark.

B. Defendant's Infringement of the SLEEPSACK® Trademark

27. Halo has not licensed or authorized Defendant KB Designs to use the trademark SLEEPSACK® in connection with infant sleepwear or any other products.

28. Long after Halo's SLEEPSACK® trademark was registered by the United States Patent and Trademark Office, Defendant started using the words "Sleep Sack" and/or "Sleepsack" as trademarks for its own Woombie line of infant swaddle products and wearable blankets. Defendant's Woombie line of products is very similar to Halo's SLEEPSACK® products and competes directly in the marketplace with Halo's products. Defendant's use of the terms "Sleep Sack" and/or "Sleepsack" on products that resemble Halo's SLEEPSACK® products is likely to cause confusion in the marketplace and mislead customers into believing that Defendant's products are in fact Halo's SLEEPSACK® products.

29. Defendant markets its products in packages that are very similar to Halo's in a side-by-side comparison, shown below. On the front of each package is a photograph of a baby covered to the neck in a swaddling garment. Halo's package describes the product as a "Halo SleepSack Swaddle." Defendant's package is

prominently marked with the words “Transitional, The Perfect Peanut, Swaddle + Sleep Sack.”

HALO
SleepSack
Swaddle

Halo SleepSack Swaddle

1-STEP BABY SWADDLE
Woombie
0-3m
Newborn
5-13lbs
2.5-6kg
Transitional
The Perfect Peanut
Swaddle + Sleep Sack
No Origami Required
Woombie ...it just works!

Woombie Transitional, The Perfect Peanut, Swaddle + Sleep Sack.

30. Defendant uses the marks “Sleep Sack” and/or “Sleepsack” to sell its infant sleepwear products through the same channels of trade as Halo, on the internet and at brick-and-mortar retail stores. These products are sold on the internet at Defendant’s own website, www.woombie.com, and at third-party online retailers including Amazon.com. Defendant also distributes and sells its products through retail stores located throughout the United States. Defendant’s use of the marks “Sleep Sack” or

"Sleepsack" in association with infant sleepwear is confusingly similar to Halo's use of its registered trademark SLEEPSACK® on its products.

31. Defendant distributes and sells its transitional and convertible infant swaddles marked with the trademarks "Sleep Sack" and/or "Sleepsack" at retail stores throughout the United States and in Minnesota, including the Buy Buy Baby store at 9160 Hudson Road in Woodbury, Minnesota.

32. Defendant has advertised, marketed, and sold several different infant sleepwear products that are identified with the trademarks "Sleep Sack" or "Sleepsack," including transitional and convertible infant swaddles. The sale of these products has infringed plaintiff's SLEEPSACK® trademark. The product numbers of Defendant's infringing products that have been sold on Amazon.com include B00OP63RKK, B0123O5P21, B0123O60J0, B014SG1L68, B014SG1OUQ, B014SG1UTQ, B014SG1Y06, B014W0D9T2, B014W0D9TW, B014W0DA0U, B014W0DA3C, B014W0DA6Y, B01C7U01VG, B01F5MCE88, B01F5MCGKO, B01F5MD3TC, B01F5MD9S2, B01F5MDAC2, and B01F5MDB3A.

C. Likelihood of Confusion

33. Defendant's use of the marks "Sleep Sack" and/or "Sleepsack" is likely to cause confusion, mistake, or deception in the marketplace because (a) Defendant's marks are identical or nearly identical in sound, sight, and meaning to Halo's registered trademark SLEEPSACK®; (b) Defendant uses the marks "Sleep Sack" and/or "Sleepsack" on products that are very similar to, and compete directly with Halo's SLEEPSACK® swaddles and wearable blankets; and (c) Defendant is selling its

infringing products through the same channels of trade as Halo, on the internet and at brick-and-mortar retail stores throughout the United States.

34. Defendant's unauthorized use of the marks "Sleep Sack" or "Sleepsack" in association with the sale of its infant sleepwear products, in direct competition with Halo's SLEEPSACK® swaddles and wearable blankets is likely to: (a) cause consumers to be confused into believing that products offered by Defendant are in some way associated with, sponsored by, or authorized by Plaintiff Halo, and (b) is likely to cause consumers to purchase Defendant's infringing products believing the products to be those of Halo.

D. Willful Infringement

35. Defendant KB Design's infringement of Halo's trademark has been willful and continues to this day. Defendant has sent cease-and-desist letters to Defendant (a) informing Defendant that Halo owns the registered trademark SLEEPSACK® for use on infant sleepwear; (b) accusing Defendant of infringement through use of the confusingly similar marks "Sleep Sack" and/or "Sleepsack" to advertise, distribute, and sell their infant sleepwear products; and (c) demanding that Defendant stop all uses of the terms "Sleep Sack" and/or "Sleepsack" in association with its infant sleepwear products. Plaintiff Halo sent cease and desist letters to Defendant on December 27, 2016 and April 7, 2017. Despite these letters, Defendant continues to infringe plaintiff's federally registered trademark by marketing, distributing, and selling infant sleepwear products marked "Sleep Sack" and/or "Sleepsack."

36. After receiving Halo's cease and desist letters, Defendant have continued to market, distribute, and sell infant sleepwear using the terms "Sleepsack" or "Sleepsack," including through KG Designs' website, www.woombie.com, Amazon.com and through retail stores located throughout the United States, including the Buy Buy Baby store in Woodbury, Minnesota.

37. With full knowledge of Plaintiff Halo's registered trademark, Defendant has deliberately traded on the goodwill and reputation associated with Plaintiff's mark in order to benefit from consumer confusion, mistake, and deception that Defendant has created through its infringement.

E. Halo's Damages

38. Defendant's infringement has damaged Halo by creating confusion between the products of Defendant and Halo that has caused consumers to purchase Defendant's products believing them to be those of Halo.

39. Defendant's infringement has also damaged Halo by depriving Halo of (a) control of the nature and quality of products sold under the SLEEPSACK® Trademark, (b) control of the reputation and goodwill associated with the SLEEPSACK® Trademark, and (c) control of own reputation as the owner of the SLEEPSACK® registered trademark.

40. Defendant's use of the terms "Sleep Sack" and "Sleepsack" on packaging and on the Internet, in advertising and promotional materials, and in connection with Defendant's infant sleepwear has further damaged Halo by and diluting the distinctive quality of Halo's famous SLEEPSACK Trademark.

41. Halo will continue to be damaged in the future, and will suffer irreparable injury due to Defendant's infringement, unless the Court enjoins Defendant from infringing Halo's SLEEPSACK® Trademark.

42. Defendant intentionally trades on the intellectual property of Plaintiff to sell its products and to benefit from consumer confusion, mistake, and deception.

COUNT ONE
FEDERAL TRADEMARK INFRINGMENT
(15 U.S.C. §1114)

43. Plaintiff Halo repeats and re-alleges the allegations of each of the foregoing paragraphs of this Complaint as if fully set forth herein.

44. Halo's federally registered SLEEPSACK® trademark, and the goodwill of the business associated with the mark in the United States, are of great and incalculable value.

45. Defendant KB Designs has infringed Plaintiff's mark in violation of 15 U.S.C. § 114(a) by (a) using the trademarks "Sleep Sack" and/or "Sleepsack" as source indicators for infant sleepwear; and (b) advertising, marketing, distributing and selling infant sleepwear that is marked with the trademarks "Sleep Sack" and/or "Sleepsack."

46. Defendant's infringing acts are likely to cause confusion, mistake, and deception as to the affiliation, connection, or association between Plaintiff Halo and Defendant KB Designs; and as to the origin, sponsorship, or approval of Defendant's sleepwear products marked with "Sleep Sack" and/or "Sleepsack," and/or Plaintiff's

SLEEPSACK® products, all to the damage and detriment of Plaintiff Halo and its reputation, goodwill, and sales.

47. Plaintiff Halo has been damaged by Defendant's trademark infringement and has no adequate remedy at law. If Defendant KB Designs is not enjoined, Plaintiff Halo will suffer immediate and continuing irreparable harm and injury to its reputation and goodwill associated with the SLEEPSACK® trademark.

48. Defendant's infringement has been and continues to be willful and with actual knowledge of Plaintiff Halo's registered trademark SLEEPSACK®.

COUNT TWO
FEDERAL UNFAIR COMPETITION
15 U.S.C. § 1125(a)

49. Plaintiff Halo repeats and re-alleges the allegations of each of the foregoing paragraphs of this Complaint as if fully set forth herein.

50. Defendant KB Designs has engaged in Unfair Competition in violation of Plaintiff Halo's rights under 15 U.S.C.§ 1125(a) by using words, names, false designations of origin, and false or misleading representation of fact, which are likely to cause confusion, mistake, or deception as to the affiliation, connection, or association between Defendant and Plaintiff Halo, including (a) using the trademarks "Sleep Sack" and/or "Sleepsack" as source indicators for Defendant's infant sleepwear products; and (b) advertising, marketing, distributing and selling infant sleepwear that is marked with the trademarks "Sleep Sack" and/or "Sleepsack."

51. Defendant KB Designs' use of the trademarks "Sleep Sack" and/or "Sleepsack" for its infant sleepwear products is likely to cause confusion or mistake, or to deceive customers into believing that there is an affiliation, connection, or association between Defendant and Halo, when there is none, or alternatively, to purchase Defendant's product believing it to be Plaintiff Halo's product, when the opposite is true.

52. Plaintiff Halo has been damaged by Defendant's unfair competition and has no adequate remedy at law. If Defendant's activities are not enjoined, Halo will suffer immediate and continuing irreparable harm and injury to its reputation and goodwill associated with the SLEEPSACK® trademark.

53. Defendant has willfully traded on the reputation and goodwill associated with Halo's mark to benefit from the confusion, deception, and mistake caused by Defendant's trademark infringement.

COUNT THREE
DILUTION UNDER FEDERAL LAW
(15 U.S.C. § 1125(c))

54. Plaintiff Halo repeats and re-alleges the allegations of each of the foregoing paragraphs of this Complaint as if fully set forth herein.

55. Plaintiff Halo's federally registered trademark SLEEPSACK® is famous and distinctive in that it is widely recognized by the general consuming public of the United States as a designation of source for the infant sleepwear products of Plaintiff Halo.

56. Defendant KB Designs has engaged in trademark dilution by blurring or tarnishment of Plaintiff's famous mark SLEEPSACK®, in violation of 15 U.S.C. § 1125(c), by using the marks "Sleep Sack" and/or "Sleepsack" in association with Defendant's advertising, distribution, and sales of its infant sleepwear products.

57. Plaintiff Halo has been damaged by Defendant's trademark dilution and has no adequate remedy at law. If Defendant's activities are not enjoined, Halo will suffer immediate and continuing irreparable harm and injury to its reputation and goodwill associated with the SLEEPSACK® trademark.

58. Defendant has willfully intended to trade on the recognition of Halo's famous SLEEPSACK mark.

COUNT FOUR
COMMON LAW TRADEMARK INFRINGEMENT
(Minnesota Common Law)

59. Plaintiff Halo repeats and re-alleges the allegations of each of the foregoing paragraphs of this Complaint as if fully set forth herein.

60. Halo's federally registered SLEEPSACK® trademark, and the goodwill of the business associated with the mark in the United States, are of great and incalculable value. Halo has acquired common law trademark rights in Minnesota through long and continuous use of the mark in Minnesota.

61. Defendant KB Designs has infringed Plaintiff's mark in violation of Minnesota Common Law by (a) using the trademarks "Sleep Sack" and/or "Sleepsack" as source indicators for infant sleepwear; and (b) advertising, marketing, distributing and

selling infant sleepwear that is marked with the trademarks “Sleep Sack” and/or “Sleepsack.”

62. Defendant’s infringing acts are likely to cause confusion, mistake, and deception as to the affiliation, connection, or association between Plaintiff Halo and Defendant KB Designs; and as to the origin, sponsorship, or approval of Defendant’s sleepwear product marked with “Sleep Sack” and/or “Sleepsack,” and/or Plaintiff’s SLEEPSACK® products, all to the damage and detriment of Plaintiff Halo and its reputation, goodwill, and sales.

63. Plaintiff Halo has been damaged by Defendant’s infringement and has no adequate remedy at law. If Defendant KB Designs is not enjoined, Plaintiff Halo will suffer immediate and continuing irreparable harm and injury to its reputation and goodwill associated with the SLEEPSACK® trademark.

64. Defendant’s infringement has been and continues to be willful and with actual knowledge of Plaintiff Halo’s registered trademark SLEEPSACK®.

COUNT FIVE
MINNESOTA TRADEMARK DILUTION
(Minn. Stat. § 333.285)

65. Plaintiff Halo repeats and re-alleges the allegations of each of the foregoing paragraphs of this Complaint as if fully set forth herein.

66. Plaintiff Halo’s federally registered trademark SLEEPSACK® is famous in the state of Minnesota as a designation of source for the infant sleepwear products of Plaintiff Halo.

67. Defendant KB Designs has engaged in trademark dilution of Plaintiff's famous mark SLEEPSACK®, in violation of Minn. Stat. § 333.285, by using the marks "Sleep Sack" and/or "Sleepsack" in association with Defendant's advertising, distribution, and sales of its infant sleepwear products.

68. Defendant has willfully traded on the recognition of Halo's famous SLEEPSACK mark.

69. Plaintiff Halo has been damaged by Defendant's trademark dilution and has no adequate remedy at law. If Defendant KB Designs is not enjoined, Plaintiff Halo will suffer immediate and continuing irreparable harm and injury to its reputation and goodwill associated with the SLEEPSACK® trademark.

COUNT SIX
UNLAWFUL TRADE PRACTICES UNDER (MINN. STAT. § 325D.13)

70. Plaintiff Halo repeats and re-alleges the allegations of each of the foregoing paragraphs of this Complaint as if fully set forth herein.

71. Defendant KB Designs has violated Minn. Stat. § 325D.13 by knowingly misrepresenting to the consuming public: (a) that its infant sleepwear products are Plaintiff's SLEEPSACK® products, through falsely advertising, labeling, and promoting their infant sleepwear in association with the trademarks "Sleep Sack" and/or "Sleepsack"; and (b) that the true origin of its merchandise is Plaintiff Halo rather than Defendant.

72. Defendant's violations of Minn. Stat. § 325D.13 threaten injury to Plaintiff because Defendant's violations: (a) prevent customers who are seeking Halo SLEEPSACK® infant sleepwear from buying it by creating confusion as to the source of Defendant's products; and (b) confuse consumers who purchase sleepwear from Defendant into believing they have purchased infant sleepwear from Plaintiff ; and (c) damaged Plaintiff's reputation and goodwill through consumer confusion.

73. Halo is entitled to an injunction barring Defendant from using Sleepsack or Sleep Sack in connection with its infant sleepwear.

74. Halo is entitled to actual damages for the losses it has sustained as a result of Defendant's violations of § 325D.13, in an amount to be determined at trial.

75. Because Defendant's conduct is directed to consumers at large, and so harms the public, Plaintiff is also entitled to an award of attorney fees.

COUNT SEVEN
DECEPTIVE TRADE PRACTICES
MINN. STAT. § 325D.44

76. Plaintiff Halo repeats and re-alleges the allegations of each of the foregoing paragraphs of this Complaint as if fully set forth herein.

77. With knowledge of Plaintiff Halo's federally registered trademark SLEEPSACK®, Defendant has used the terms "Sleep Sack" and/or "Sleepsack" in its marketing efforts without Halo's permission, on its product packaging and in advertisements on the internet, including on Amazon.com and Woombie.com

78. Defendant's unauthorized use of the marks "Sleep Sack" and/or "Sleepsack" in association with the advertising and sale of infant sleepwear violates Minn. Stat. § 325D.44 because these uses: (a) pass off Defendant's products as those of Plaintiff Halo; (b) are likely to cause confusion as to the source, sponsorship, approval or certification of Defendant's goods by leading customers to believe they are purchasing the infant sleepwear offered by Plaintiff; and (c) are likely to cause confusion as to whether Defendant is affiliated, associated or connected with Plaintiff.

79. Defendant's has engaged in these deceptive trade practices knowing them to be deceptive.

80. Defendant's violations of Minn. Stat. § 325D.44 threaten injury to Halo because those violations: (a) prevent customers who are seeking Halo SLEEPSACK swaddles from buying Plaintiff's swaddles through confusion; (b) confuse consumers who buy swaddles from Defendant into believing they have bought product from Halo; and (c) damaged Plaintiff's reputation and goodwill through consumer confusion.

81. Halo is entitled to an injunction barring Defendant from using any variant of SLEEPSACK – including Sleep Sack, and Sleepsack – on any of its marketing, including product packaging and website.

JURY DEMAND

82. Pursuant to Fed. R. Civ. P. 38(b), Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Halo prays for judgment against Defendant KB Designs as follows:

A. An order preliminarily and permanently enjoining Defendant from infringing Plaintiff Halo's SLEEPSACK® trademark; from making any false, misleading, or deceptive statements in association with Defendant's distribution or sales of its infant sleepwear products that suggest or imply a connection or affiliation between Plaintiff and Defendant; and from promoting, marketing, or selling any sleepwear products with the marks "Sleep Sack" and/or "Sleepsack."

B. An order compelling Defendant to pay damages under Minnesota State and Federal law, including: (a) under 15 U.S.C. §§ 1 *et seq.*, compelling Defendant to pay all damages caused by its infringement of Plaintiff's federally registered SLEEPSACK® trademark or by its federal unfair competition, including Defendant's profits, damages sustained by Plaintiff, and the costs of this action; (b) compelling Defendant to pay all damages under Minnesota law for common law trademark infringement, common law trademark dilution, and violations of Minn. Stat. §§ 325D.44 and 325D.13; and (c) awarding treble damages under the Lanham Act and Minn. Stat.§ 333.29.

C. An order awarding Plaintiff Halo its costs, expenses, and reasonable attorneys' fees as allowed under the Lanham Act and Minnesota statutes.

D. An order awarding Plaintiff Halo its prejudgment interest

E. An order granting such other relief as the Court deems just and equitable.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL CLAIMS SO TRIABLE.

Respectfully submitted,

CARLSON, CASPERS, VANDENBURGH,
LINDQUIST & SCHUMAN, P.A.

Dated: May 1, 2017

/s/ Matthew J. Goggin

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